

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8493 of 2024

Arising Out of PS. Case No.-189 Year-2023 Thana- NIMCHAKBATHANI District- Gaya

1. Nitish Kumar Son of Late Musaphir Singh @ Musafir Singh Resident of Village-Horidih Sheikhpura, P.S.-Neemchak Bathani, District-Gaya.
2. Rashosh Kumar Son of Surendra Singh Resident of Village-Horidih Sheikhpura, P.S.-Neemchak Bathani, District-Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 8842 of 2024

Arising Out of PS. Case No.-189 Year-2023 Thana- NIMCHAKBATHANI District- Gaya

Umair Khan @ Md. Umair Khan Son Of Jubair Khan @ Md. Jubair Khan
R/O-Horidih, P.S.-Neemchak Bathani, Distt.-Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 8493 of 2024)

For the Petitioner/s : Ms. Priya Ranjan, Advocate
Mr. Nitish Kumar, Advocate
Mr. Mukesh Kumar, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP
(In CRIMINAL MISCELLANEOUS No. 8842 of 2024)

For the Petitioner/s : Ms. Priya Ranjan, Advocate
Mr. Nitish Kumar, Advocate
Mr. Mukesh Kumar, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

3 26-04-2024 Heard learned counsel for the petitioners and

learned APP for the State.

2. The petitioners seek bail in Neemchak Bathani P.S.

Case No. 189 of 2023, instituted for the offences punishable

under Sections 25(1-B)a, 26 and 35 of the Arms Act.



3. The prosecution case, in short, is that, there is recovery of two rifles, 23 live cartridges, one Bindolia loaded with 22 live cartridges, country made pistol loaded with 7 live cartridges and several other incriminating articles from the house of co-accused 'Shanobar Khan'. Petitioners and other co-accused persons were alleged to have apprehended on spot.

4. Learned counsel for the petitioners submits that the petitioners are innocent and have falsely been implicated in the present case. Charge-sheet has been submitted in this case. No incriminating material has been recovered from the conscious possession of the petitioners, rather the said recovery has been made from the house of co-accused, namely, Sanobar Khan. The petitioners are in custody since 18.10.2023. In Cr. Misc. No. 8493 of 2024, Petitioner No. 1 has got one criminal antecedent in which the petitioner is on bail and Petitioner No. 2 has got four criminal antecedents in which the petitioner is on bail. Whereas, Petitioner in Cr. Misc. No. 8842 of 2024 has got five criminal antecedents in which the petitioner is on bail. There is no compliance of Section 100 of the Cr.P.C. Learned counsel for the petitioners further submits that similarly situated co-accused have been granted bail by this Court vide order dated 26.02.2024 passed in Cr. Misc. No. 11816 of 2024 and order



dated 18.03.2024 passed in Cr. Misc. No. 17634 of 2024.

5. Learned APP for the State has vehemently opposed the prayer for grant of bail to the petitioners.

6. Considering the aforesaid facts and circumstances of the case, taking into account the period of custody undergone by the petitioners and claim based on parity, this Court is inclined to grant bail to the petitioners.

7. Let the petitioners be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Neemchak Bathani P.S. Case No. 189 of 2023, subject to the following conditions:

(I) One of the bailors shall be own/close member of the family of the petitioner.

(II) The petitioner shall appear on each and every date fixed at the trial. In case of default in such appearance on two consecutive dates, the Trial Court will have liberty to cancel the bail bonds of the petitioner.

(Rudra Prakash Mishra, J)

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